



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 31, 1995

Ms. Sheree L. Rabe
Assistant City Attorney
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR95-735

Dear Ms. Rabe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30777.

The City of Georgetown received a request for a "full and complete copy of report # 94-13935" involving the recovery of a stolen motor vehicle. You state that both defendants in this case have been indicted and that according to the District Attorney's Office the case is still open. The city has provided the requestor with a copy of the front page of the offense report. You contend, however, that the remaining information is excepted from public disclosure under section 552.108 of the Government Code.

Section 552.108 provides:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure].

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure].

Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, any proper custodian of information which relates to the incident may invoke section 552.108. Open Records Decision Nos. 474 (1987), 372 (1983). Certain factual information generally found on the front page of police offense reports, however, is public even during an active investigation. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) at 3-4 (listing factual information available to public).

We remind the city that it is the type of information that is determinative of its disposition under *Houston Chronicle Publishing Co.*, not the location of the information. The city must release all of the information specified as public by the *Houston Chronicle Publishing Co.* case even if the information is not on the *front page* of the offense report. The top part of the backs of pages two, three, and four of the Offense Report must be released. This information simply identifies the arrestee, which is clearly front page information.

Furthermore, an officer's narrative containing a "detailed description of the offense" is public information. Open Records Decision Nos. 354 (1982), 127 (1976) at 3-4, 9. The narrative contained on the front page of the offense report is inadequate--it is not a "detailed description of the offense." The city, therefore, has not fully complied with the mandates of the *Houston Chronicle Publishing Co.* case. We note that one suspect was charged with possession of marijuana, which is not reflected in the narrative that was released. The city must release at least some portions of the narrative contained on the subsequent pages of the Offense Report.

The Arrest Report also contains information listed as public in police blotters, show-up sheets, and arrest sheets. See *Houston Chronicle Publishing Co.*, 531 S.W.2d 177; Open Records Decision No. 127 (1976) at 3-4. The information up to the narrative is public information and must be released. The narrative may also be public, see discussion *supra*. The remaining information may be withheld under section 552.108 of the Government Code.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records.

¹We note that the complaints, the affidavit for the arrest warrant, the arrest warrant, and *Miranda* sheet for Pringle must be released if they already have been made part of the court record.

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Margaret A. Roll". The signature is written in a cursive, flowing style.

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/LBC/rho

Ref: ID# 30777

Enclosures: Open Records Decision No. 127 (1976)
Submitted documents

cc: Mr. Bruce C. Blair
Allstate Insurance Co.
P.O. Box 168448
Irving, Texas 75016
(w/o enclosures)